STEVEN W. MYHRE 1 Acting United States Attorney District of Nevada 2 Nevada Bar No. 9635 NADIA J. AHMED 3 Assistant United States Attorney ERIN M. CREEGAN Special Assistant United States Attorney 501 Las Vegas Blvd. South, Suite 1100 Las Vegas, Nevada 89101 5 (702) 388-6336 steven.myhre@usdoj.gov 6 nadia.ahmed@usdoj.gov erin.creegan@usdoj.gov 7 Representing the United States of America 8 UNITED STATES DISTRICT COURT 9 DISTRICT OF NEVADA 10 UNITED STATES OF AMERICA, 11 2:16-CR-00046-GMN-PAL Plaintiff, 12 GOVERNMENT'S RESPONSE IN OPPOSITION TO **DEFENDANT** v. 13 RYAN C. BUNDY'S "MOTION TO COMPELL [sic] DISCOVERY" (ECF RYAN C. BUNDY, 14 No. 2299) Defendant. 15 16 **CERTIFICATION**: The undersigned certify that this response is timely filed. 17 The United States, by and through the undersigned, respectfully files this 18 response in opposition to Defendant Ryan C. Bundy's Motion to Compell (sic) 19 Discovery filed August 22, 2017 (ECF No. 2299). 20 21 22 23 24

## **GOVERNMENT'S RESPONSE**

Ryan Bundy moves to compel production of discovery regarding "the make, model, characteristics, and capabilities of every piece of equipment being used on the hills above the Bundy home and the American People between March 26, 2014 and April 12, 2014," all of the data collected, transmitted, or captured "by use or aid of the mysterious devices," and "any and all other information related to these devices." ECF 2299. In support of his motion he provides an affidavit authored by himself stating that "on April 6, 2014 and before [he] observed a mysterious device located on the hill directly Northeast of, and overlooking the Cliven Bundy home. The devise [sic] comprised of telephoto lens and camera type implement, and a visible laser pointing directly at the Bundy home. The devise was mounted on a tripod, had an antenna, and was supported by an electric generator." *Id*.

The Court should deny Bundy's motion. First, Bundy fails to explain how the information he seeks is relevant to either the charges or defenses in this case or how it is material to preparing a valid defense. *United States v. Santiago*, 46 F.3d 885, 893 (9th Cir. 1995); Fed. R. Crim. P. 16(a)(1)(E)(i). "Neither a general description of the information sought nor conclusory allegations of materiality suffice; a defendant must present facts which would tend to show that the government is in possession of information helpful to the defense." *Id.* citing *United States v. Mandel*, 914 F.2d 1215, 1219 (9th Cir.1990).

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Bundy's affidavit states he observed these "mysterious devices" near the Bundy residence in April 2014. Yet he fails to explain how further knowledge of these "mysterious devices" would aid him in providing a valid defense to the charges in this case. On its face information about surveillance cameras around the Bundy residence, even if, as he claims fantastically, they were capable of allowing for aerial "target acquisition" or functioning as "parabolic listening devices," is immaterial to the charges of assaulting, threatening, extorting, obstructing law enforcement officers and conspiring with others to do these acts. Thus, it is unclear how such information would aid in Bundy's defense.

Bundy also failed to meet and confer either through writing or through his standby counsel prior to moving to compel. LCR 16-1(c) (Before filing any motion for discovery, the attorney for the moving party must meet and confer with the opposing attorney in a good-faith effort to resolve the discovery dispute.) Instead, he filed the instant motion and attached affidavit wherein he describes the BLM as a "military force" and as "militarily armed personnel." Bundy's motion appears to be little more than a fantastical fishing expedition for evidence justifying attacking law enforcement officers because he did not like the way they dressed while enforcing court orders. In essence, his motion is another attempt at jury nullification.

While Bundy's motion fails to establish any materiality of the information he seeks and should be denied, the Government has and will continue to meet all of its discovery/production obligations in this case.

WHEREFORE, for the foregoing reasons, the Government respectfully requests that that the Court deny Bundy's motion to compel (ECF No. 2299). **DATED** this 5th day of September, 2017. Respectfully, STEVEN W. MYHRE Acting United States Attorney /s/ Steven W. Myhre NADIA J. AHMED Assistant United States Attorney ERIN M. CREEGAN Special Assistant United States Attorney Attorneys for the United States 

**CERTIFICATE OF SERVICE** I certify that I am an employee of the United States Attorney's Office. A copy of the foregoing GOVERNMENT'S RESPONSE IN OPPOSITION TO DEFENDANT RYAN BUNDY'S "MOTION TO COMPELL (sic) DISCOVERY" (ECF No. 2299) was served upon counsel of record, via Electronic Case Filing (ECF). **DATED** this 5th day of September, 2017. /s/ Steven W. Myhre STEVEN W. MYHRE Acting United States Attorney